

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Jonesburg, City of, Montgomery County .....	290310	December 31, 2007, Emerg; NA, Reg; May 18, 2009, Susp.	.....do .....	Do.
Lake Ozark, City of, Miller County .....	290698	April 15, 2005, Emerg; August 1, 2005, Reg; May 18, 2009, Susp.	.....do .....	Do.
Miller County, Unincorporated Areas .....	290226	NA, Emerg; October 19, 1998, Reg; May 18, 2009, Susp.	.....do .....	Do.
Montgomery County, Unincorporated Areas	290242	October 29, 1986, Emerg; March 1, 1987, Reg; May 18, 2009, Susp.	.....do .....	Do.
Rhineland, Town of, Montgomery County ....	290243	October 24, 1986, Emerg; October 24, 1986, Reg; May 18, 2009, Susp.	.....do .....	Do.
Tuscumbia, Village of, Miller County .....	290228	December 2, 1986, Emerg; March 1, 1987, Reg; May 18, 2009, Susp.	.....do .....	Do.
<b>Region IX</b>				
California: San Jose, City of, Santa Clara County.	060349	January 23, 1976, Emerg; August 2, 1982, Reg; May 18, 2009, Susp.	.....do .....	Do.

\* do = Ditto.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: May 7, 2009.

**Deborah Ingram,**

*Acting Deputy Assistant Administrator,  
Mitigation Directorate, Department of  
Homeland Security, Federal Emergency  
Management Agency.*

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**BILLING CODE 9110–12–P**

**DEPARTMENT OF HOMELAND  
SECURITY**

**Federal Emergency Management  
Agency**

**44 CFR Part 67**

[Docket ID FEMA–2008–0020]

**Final Flood Elevation Determinations**

**AGENCY:** Federal Emergency  
Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Assistant Administrator of the Mitigation Directorate has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

*National Environmental Policy Act.* This final rule is categorically excluded from the requirements of 44 CFR part

10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This final rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This final rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

**PART 67—[AMENDED]**

■ 1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.11 [Amended]**

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
<b>Transylvania County, North Carolina and Incorporated Areas Docket Nos.: FEMA-D-7826, FEMA-B-7792, FEMA-B-1003</b>			
Allison Creek .....	Approximately 450 feet upstream of the confluence with Lamb Creek.	+2,116	Unincorporated Areas of Transylvania County, City of Brevard.
Boylston Creek .....	Approximately 1,100 feet upstream of Camp Straus Road. Approximately 1,500 feet downstream of the Henderson/Transylvania County boundary. Approximately 50 feet upstream of King Road (State Road 1502).	+2,187 +2,173 +2,228	Unincorporated Areas of Transylvania County.
Carson Creek .....	At the confluence with French Broad River .....	+2,137	Unincorporated Areas of Transylvania County.
Catheys Creek .....	Approximately 0.6 mile upstream of Island Ford Road (State Road 1103). Approximately 10 feet upstream of U.S. Highway 64 .....	+2,471 +2,187	Unincorporated Areas of Transylvania County, City of Brevard.
Davidson River .....	Approximately 1.1 miles upstream of U.S. Highway 64 ..... Approximately 100 feet upstream of Old Henderson Highway.	+2,253 +2,104	Unincorporated Areas of Transylvania County, City of Brevard.
Davidson River (original channel).	Approximately 50 feet upstream of U.S. 64 Highway .....	+2,128	Unincorporated Areas of Transylvania County, City of Brevard.
Davidson River Tributary 1 .....	The confluence with Davidson River ..... Approximately 1,000 feet upstream from the confluence of Turkey Creek. At the confluence with Davidson River .....	+2,117 +2,127 +2,109	Unincorporated Areas of Transylvania County, City of Brevard.
Flat Creek .....	Approximately 1,440 feet upstream of Ecusta Road ..... Approximately 100 feet upstream of the confluence with West French Broad River.	+2,144 +2,298	Unincorporated Areas of Transylvania County.
Frozen Creek .....	The confluence of North and South Flat Creek ..... At the confluence with West Fork French Broad River .....	+2,533 +2,233	Unincorporated Areas of Transylvania County.
Graham Creek .....	Approximately 500 feet upstream of Frozen Creek Road (State Road 1143). Approximately 600 feet upstream of Keystone Camp Road.	+2,361 +2,167	Unincorporated Areas of Transylvania County, City of Brevard.
Horsepasture River .....	Approximately 100 feet downstream of East Southwood Drive. Approximately 200 feet downstream of the Jackson/Transylvania County boundary.	+2,172 +2,968	Unincorporated Areas of Transylvania County.
Hunts Branch .....	At the Jackson/Transylvania County boundary ..... At the confluence with Norton Creek .....	+2,989 +2,180	Unincorporated Areas of Transylvania County, City of Brevard.
Indian Creek .....	Approximately 640 feet upstream of Probart Street (State Road 1348). The confluence with Toxaway River .....	+2,218 +2,186	Unincorporated Areas of Transylvania County.
Jumping Branch .....	Approximately 0.6 mile upstream of NC Highway 281 ..... Approximately 10 feet upstream of Turnpike Road .....	+3,041 +2,141 +2,163	City of Brevard.
King Creek .....	Approximately 30 feet downstream of Miner Street ..... Approximately 0.6 mile upstream of the confluence with French Broad River.	+2,105	Unincorporated Areas of Transylvania County, City of Brevard.
Lime Kiln Creek .....	Approximately 0.4 mile upstream of Millbrook Drive ..... Approximately 0.6 mile upstream of the confluence with French Broad River.	+2,290 +2,150	Unincorporated Areas of Transylvania County.
Little River .....	Approximately 750 feet upstream of Ross Road (State Road 1334). Approximately 1.3 miles upstream of Cascade Lake Road (State Road 1536). Approximately 300 feet upstream of Casey Lane .....	+2,213 +2,142 +2,745	Unincorporated Areas of Transylvania County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Long Branch .....	The confluence with King Creek .....	+ 2,144	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 280 feet upstream of the confluence with King Creek.	+ 2,144	
Lyday Creek .....	Approximately 0.7 mile upstream of the confluence with French Broad River.	+ 2,097	Unincorporated Areas of Transylvania County.
	Approximately 0.7 mile upstream of the confluence of Blythe Branch.	+ 2,152	
Mason Creek .....	Approximately 50 feet upstream of Whitmire Road (State Road 1128).	+ 2,159	Unincorporated Areas of Transylvania County.
	Approximately 0.4 mile upstream of Cherryfield Loop (State Road 1392).	+ 2,227	
Morton Creek .....	At the confluence with South Fork Flat Creek .....	+ 2,674	Unincorporated Areas of Transylvania County.
	Approximately 1,820 feet upstream of U.S. 64 Highway ....	+ 2,700	
North Fork Flat Creek .....	At the confluence with Flat Creek and South Fork Flat Creek.	+ 2,533	Unincorporated Areas of Transylvania County.
	Approximately 1,300 feet upstream of Golden Road (State Road 1313).	+ 2,998	
Norton Creek .....	At the confluence with Nicholson Creek .....	+ 2,128	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 475 feet upstream of Probart Street (State Road 1348).	+ 2,218	
Osborne Branch .....	The confluence with Boylston Creek .....	+ 2,223	Unincorporated Areas of Transylvania County.
	Approximately 0.7 mile upstream of the confluence with Boylston Creek.	+ 2,422	
Pole Bridge Branch .....	The confluence with Little River .....	+ 2,698	Unincorporated Areas of Transylvania County.
	Approximately 900 feet upstream of the confluence with Little River.	+ 2,739	
South Fork Flat Creek .....	At the confluence with Flat Creek and North Fork Flat Creek.	+ 2,533	Unincorporated Areas of Transylvania County.
	Approximately 0.5 mile upstream of Flat Creek Valley Road (State Road 1147).	+ 2,792	
South Prong Turkey Creek .....	At the confluence with Turkey Creek .....	+ 2,252	Unincorporated Areas of Transylvania County.
	Approximately 360 feet upstream of the confluence with Turkey Creek.	+ 2,269	
Sutton Creek .....	The confluence with Boylston Creek .....	+ 2,228	Unincorporated Areas of Transylvania County.
	Approximately 0.8 mile upstream of Lakeland Drive .....	+ 2,497	
Toxaway River .....	Approximately 5.9 miles upstream of North Carolina/South Carolina boundary.	+ 2,164	Unincorporated Areas of Transylvania County.
	Approximately 1.0 mile upstream of Cardinal Drive West ..	+ 3,390	
Toxaway River Tributary 5 .....	The confluence with Toxaway River .....	+ 2,654	Unincorporated Areas of Transylvania County.
	Approximately 0.4 mile upstream of the confluence with Toxaway River.	+ 3,021	
Toxaway River Tributary 6 .....	The confluence with Toxaway River .....	+ 2,643	Unincorporated Areas of Transylvania County.
	Approximately 0.5 mile upstream of the confluence with Toxaway River.	+ 2,804	
Turkey Creek .....	At the confluence with Davidson River (original channel) ..	+ 2,124	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 120 feet upstream of the confluence with South Prong Turkey Creek.	+ 2,256	
West Fork French Broad River	Approximately 1,600 feet upstream of U.S. Highway 64 ....	+ 2,247	Unincorporated Areas of Transylvania County.
	Approximately 200 feet upstream of the confluence of Flat Creek.	+ 2,307	
Whitewater River .....	At the North Carolina/South Carolina boundary .....	+ 1,961	Unincorporated Areas of Transylvania County.
	At the Transylvania/Jackson County boundary .....	+ 3,163	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Williamson Creek .....	Approximately 1,000 feet upstream of Wilson Road (State Road 1540).	+2,105	Unincorporated Areas of Transylvania County.
	Approximately 1,000 feet upstream of the confluence of Camp Creek.	+2,116	
Wilson Mill Creek .....	Approximately 1,900 feet upstream of the confluence with Catheys Creek.	+2,148	Unincorporated Areas of Transylvania County.
	Approximately 1,900 feet upstream of Forest Road .....	+2,398	

\* National Geodetic Vertical Datum.  
+ North American Vertical Datum.  
# Depth in feet above ground.

**ADDRESSES**

**City of Brevard**

Maps are available for inspection at the City of Brevard Planning Department, 95 West Main Street, Brevard, NC.

**Unincorporated Areas of Transylvania County**

Maps are available for inspection at the Transylvania County Inspections Department, 98 East Morgan Street, Brevard, NC.

**Walworth County, Wisconsin, and Incorporated Areas FEMA Docket No.: B-7755**

Eagle Spring Lake .....	All flooding affecting County .....	+822	Unincorporated Areas of Walworth County.
Mukwonago River .....	Approximately 1,700 feet North of the intersection of Marsh Road and County Highway J. Approximately 1.2 miles Northeast of the intersection of County Highway J and County Highway E.	+799 +806	Unincorporated Areas of Walworth County.

\* National Geodetic Vertical Datum.  
+ North American Vertical Datum.  
# Depth in feet above ground.

**ADDRESSES**

**Unincorporated Areas of Walworth County**

Maps are available for inspection at the Office of Emergency Management, 1770 County Road NN, Elkhorn, WI 53121.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: May 11, 2009.

**Deborah S. Ingram,**

*Deputy Acting Assistant Administrator for Mitigation, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.*

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**DEPARTMENT OF ENERGY**

**48 CFR Parts 904, 952 and 970**

**RIN 1991-AB71**

**Acquisition Regulation: Security Clause**

**AGENCY:** Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to revise the security clause used in all contracts and subcontracts involving access authorizations to specifically require background reviews, and tests

for the absence of any illegal drug, as defined in DOE regulations of uncleared personnel (employment applicants and current employees), who will require access authorizations. Background reviews would not be required for applicants for DOE access authorization who possess a current access authorization from another Federal agency.

**DATES:** *Effective Date:* June 17, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Richard Langston at 202-287-1339 or *Richard.Langston@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Comments and Responses
- III. Procedural Requirements
  - A. Review Under Executive Order 12866
  - B. Review Under Executive Order 12988
  - C. Review Under the Regulatory Flexibility Act
  - D. Review Under the Paperwork Reduction Act
  - E. Review Under the National Environmental Policy Act
  - F. Review Under Executive Order 13132
  - G. Review Under the Unfunded Mandates Reform Act of 1995
  - H. Review Under the Treasury and General Government Appropriations Act, 1999

- I. Review Under Executive Order 13211
- J. Review Under the Treasury and General Government Appropriations Act, 2001
- K. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996
- L. Approval by the Office of the Secretary of Energy

**I. Background**

Many DOE contractor and subcontractor employees require access authorizations for access to classified information (restricted data, formerly restricted data, or national security information) or certain quantities of special nuclear material in order to perform official duties. On February 19, 2008, DOE published a notice of proposed rulemaking to revise the Department of Energy Acquisition (DEAR) regulations to require the security clause used in certain contracts and subcontracts to specifically require contractors and subcontractors to conduct background checks and tests for illegal drugs of uncleared applicants and employees who will require DOE access authorizations (73 FR 9071). Under the proposed rule, the background check included the